

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KEYON LEE,

Petitioner,

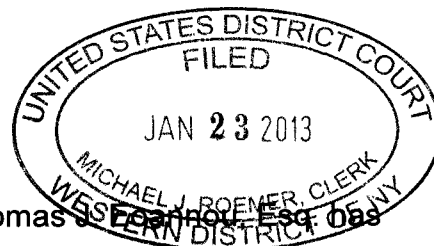
-v-

CHARLES E. SAMUEL, Jr., Director of  
Federal Bureau of Prisons,

Respondent.

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DECISION AND ORDER  
13-CV-0037C(F)



Petitioner Keyon Lee, by and through his attorney, Thomas J. Carroll, Esq. has filed a petition, pursuant to 28 U.S.C. § 2241, challenging a determination of the Federal Bureau of Prisons denying his request for a *nunc pro tunc* designation of the state correctional facility in which he was incarcerated as a place of confinement for service of his federal sentence. (Docket No. 1, Petition, at ¶ 11.) According to the petition, petitioner is incarcerated at the Eastern Correctional Facility which is located in Ulster County (New York) and is thus within the geographical boundaries of the United States District Court for the Northern District of New York.

“The only proper venue for filing a section 2241 petition is the district of incarceration, not the district in which the [petitioner] was sentenced.” *Dutton v. U.S. Attorney General*, 713 F. Supp .2d 194, 206 (W.D.N.Y. 2010) (citing *U.S. v. Rodriguez*, 2007 WL 927446, at \* 1 (W.D.Mich., March 24, 2007) (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004))); see also *Mitchell v. Superintendent*, 2011 WL 4345464, at \*1 (N.D. Ind., September 14, 2011) (petition challenging a decision whether to designate a state facility as the official place of detention for serving a federal sentence, which in effect controls


whether a federal sentence is concurrent or consecutive to a state sentence, is reviewable under § 2241, and the petition must be brought in the District where the petitioner is in custody) (citation omitted)).

Because the petitioner is incarcerated in a correctional facility within the Northern District of New York, the petition will be transferred to the United States District Court, Northern District of New York. See 28 U.S.C. § 1631 (a district court may transfer an action to another court with jurisdiction over the action, if it is in the interest of justice); *Liriano v. United States*, 95 F.3d 119, 122 (2d Cir.1996)); *McCarthy v. Warden FCI Florence*, 2010 WL 4365588 at \*2 (D. Conn., October 22, 2010).

IT HEREBY IS ORDERED, that the case is transferred to the United States District Court for the Northern District of New York.

SO ORDERED.

Dated: January 18, 2013  
Rochester, New York

  
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CHARLES J. SIRAGUSA  
United States District Judge